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BY EMAIL

Hon. Freda L. Wolfson
Lowenstein Sandler LLP
One Lowenstein Drive
Roseland, NJ 07068

Re: Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLC, et al.
Civil Action No. 22-2632 (JKS) (CLW)

**Express Scripts and Accredo's Opposition
to JJHCS's Letter Regarding AEO Disclosures**

Dear Judge Wolfson:

We write in response to Johnson & Johnson Health Care Systems Inc.'s ("JJHCS") letter of this morning, regarding an alleged "potential unauthorized disclosure" of Attorney's Eyes Only ("AEO") material. As set forth below, there has not been any unauthorized disclosure. To be clear, no AEO documents have been shared with employees of Accredo Health Group, Inc. ("Accredo") or Express Scripts, Inc. ("Express Scripts"). A single in-house litigation attorney reviewed the draft answers for Accredo and Express Scripts, which contain information that JJHCS *alleges* originates in a document JJHCS stamped AEO. That attorney, Timothy Geverd, Associate Senior Counsel, Litigation, Evernorth Health Services,¹ executed the Discovery Confidentiality Order (the "DCO") for this matter on November 27, 2023. *See* Executed Endorsement of Protective Order (attached hereto as **Exhibit 1**).

At issue is a single paragraph of Accredo's and Express Scripts' Answers regarding Johnson & Johnson's financial metrics relating to copay assistance. Nowhere does the paragraph at issue

¹ Evernorth Health Services is a parent company of both Express Scripts and Accredo.

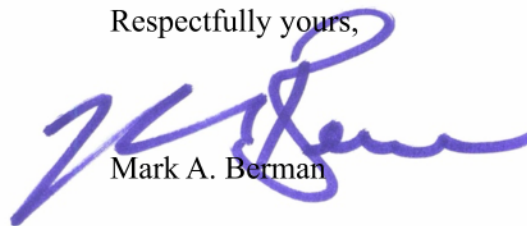
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quote or describe any document stamped AEO. Nor do the Answers attach it as an exhibit. And most importantly, Accredo and ESI did not share the document JJHCS claims is the source of this material with *any* employees of Accredo or ESI.

To the extent JJHCS asserts that disclosure is required even for in-house attorneys to review Accredo's and ESI's own draft pleading, that too is a non-issue, because the only employee who reviewed the Answer – an attorney – executed the DCO well over a year ago. Although Accredo and Express Scripts may not have already disclosed Attorney Geverd to JJHCS under the DCO, such disclosure has now been made.

More so, such disclosure would not come as a surprise given the history of this case. In September 2023, JJHCS provided more than 28 documents to Express Scripts, some of which were marked AEO, for its review. Similarly, on November 7, 2023, the Court granted SaveOnSP leave to provide ESI and Accredo 12 JJHCS's documents marked AEO under the DCO (Doc. 173). It is unclear why JJHCS never raised this issue with Express Scripts or Accredo's counsel until now. Regardless, Express Scripts and Accredo reiterate that there has been no unauthorized disclosure of AEO material.²

Respectfully yours,



Mark A. Berman

cc: All Counsel of Record (via email)

² Importantly, JJHCS has not disclosed a single employee to either Accredo or Express Scripts under the DCO. Presumably some JJHCS employees reviewed the Amended Complaint (which contains Accredo's AEO information) before JJHCS filed it yet JJHCS failed to provide the names of any such individuals to Accredo or Express Scripts.